IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15352 of 2004

Between:

P.Nagamani, D/oDevadanam,
R/o.H.NO.2-268, Zammi Dornala Village, Dornala Mandal,
Prakasam Dist.

..... PETITIONER

AND

1 The Joint Collector, Ongole, Prakasam Dist.
2 The Revenue Divisional officer, Markapur, Prakasam Dist.
3 The Mandal Revenue officer, Dornala Mandal, Prakasam Dist.
4 Bathineni Ramanaiah S/o. Rajulaiah
Prakasam Dist.

R4 is impleaded as per court order dt. 5-10-2004 in
WPMP 23313 of 2004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particulary one in the nature of writ of Mandamus, to declare the impugned proceedings dt.3-8-2004 in Rc.CS2/2651/2004 rejecting the grant of stay of the orders of the proceedings of the 2nd respondent dt.12-7-2004 in Rc.H/1115/2004 as illegal, arbitrary, unjust and consequently direct the respondents herein to hear and dispose off the appeal expeditiously and to grant such other relief or reliefs as this Hon'ble court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: K.ARUNA

Counsel for Respondent Nos. 1 to 3: GP FOR CIVIL SUPPLIES

Counsel for Respondent No.4: Mr. M. Brahma Reddy.

The Court at the stage of admission made the following:

O R D E R:

Heard the learned counsel for both the parties and perused the material on record.

The petitioner was the authorised dealer of the Fair Price Shop of Jammi Dornala Village. Her authorisation was suspended with immediate effect by the Revenue Divisional Officer, by an order dated 12-07-2004 on the basis of the report of the Food Inspector, Markapuram, alleging that the petitioner is indulging in certain irregularities in distribution of the essential commodities. Against the said order, the petitioner preferred an appeal before the first respondent, Joint Collector, Ongole. The first respondent having entertained the appeal, by an order dated 03-08-2004 rejected the application for stay. The said order is under challenge in this writ petition.

This Court, having *prima facie* found that the impugned order of suspension which is in the nature of a final order by way of substantive punishment has been passed without affording an opportunity to the petitioner to rebut the allegations, while directing notice to the respondents granted interim order directing the respondents to permit the petitioner to lift the commodities and distribute the same to the card holders pending further orders.

Now, a counter-affidavit has been filed on behalf of the respondents. However, nothing has been placed before this Court to show that any enquiry was pending by the date of the order of suspension dated 12-07-2004 nor that the petitioner was afforded any opportunity to explain the allegations before passing the said order. On the other hand, it is stated in the counter-affidavit that a show-cause notice, dated 16-07-2004 was issued subsequently and that the enquiry will be conducted following due process of law.

Having regard to the above facts and circumstances of the case and since admittedly the order of suspension dated 12-07-2004 was passed by way of substantive punishment, a prima facie case is made out and the balance of convenience is in favour of the petitioner and therefore it would be appropriate to grant stay of operation of the order of suspension till the disposal of the Statutory Appeal.

Accordingly the impugned order is set aside and the writ petition is disposed of with a direction to the first respondent to dispose of the appeal pending on his file against the order of the Revenue Divisional Officer dated 12-07-2004, as expeditiously as possible, preferably within a period of four weeks from the date of

receipt of a copy of this order. Till such time, the order of suspension dated 12-07-2004 shall not be given effect to. No costs.

(G. ROHINI, J)

Date: 11-11-2004

ghn

To

1 The Joint Collector, Ongole, Prakasam Dist.

2 The Revenue Divisional officer, Markapur, Prakasam Dist.

3 The Mandal Revenue officer, Dornala Mandal, Prakasam Dist.

4 Two C.Cs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT)

5 Two C.D copies.